

**PHARMACY EXAMINING BOARD
DECEMBER 2, 2009
MEETING MINUTES**

PRESENT: Timothy Boehmer, R.Ph.; Amy Mattila, R.Ph; Pamela Phillips; Suzette Renwick; Jason Walker-Crawford, R.Ph.; and Gregory C. Weber, R.Ph.

EXCUSED: Jeanne Severson, R.Ph.

STAFF: Tom Ryan, Bureau Director; Mike Berndt, DRL Board Counsel; Michelle Solem, Bureau Assistant; and other DRL Staff

GUESTS: Marisa Stanley and Jim Vergeront, Wisconsin Division of Public Health (DPH); Gary Plank, Philip Nelson and Mandy Guo, Marshfield Clinic; Tom Engels, Pharmacy Society of Wisconsin (PSW); Eric Knox, Department of Corrections (DOC); Judy Warmuth, Wisconsin Hospital Association; Jamie Statz-Paynter, Dean Pharmacy; Phillip Olley, Pharmacy Student at University of Wisconsin – Madison School of Pharmacy; Lisa Sobotkiewicz, Target Pharmacy; Carol Petersen, Women’s International Pharmacy; Jeremy Levin and Jo Preston, Rural Wisconsin Health Cooperative (RWHC); Matt Mabie, Hometown Pharmacy; Mark Naumann, Sarah McEnaney and Dr. Todd Kapinski, Froedtert Hospital; Laurie Flagel-Dean, Group Health Cooperative; Jim Wahner, Golden Living, LLC.; Jason Knox, Community Memorial Hospital; Donna Nuendorf, Cardinal Health; Heather Christiansen, St. Mary’s Hospital Inpatient Pharmacy; and Ted Grabarczyk, DPH-4 MD Group.

CALL TO ORDER

Gregory Weber, Board Chair, called the meeting to order at 9:06 a.m. A quorum of 6 members was confirmed.

APPROVAL OF AGENDA

Amendments:

- At Item F – Add 2 Clearinghouse Reports to review
- Between Items G and H – Variance Request – Froedtert Hospital
- At Item N – CY09 November Theft and Loss Report
- At the end of the agenda – add case closing report
- Change Item U 08 PHM 36 to 08 PHM 46.

MOTION: Pamela Phillips moved, seconded Amy Mattila, to approve the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF OCTOBER 28, 2009

Corrections:

- Change bullet point in amendments for Item O
- Page 11-Correct spelling of Marshfield
- Page 13-Add Advisory after “Business” to the Small Business Review Committee

MOTION: Jason Walker-Crawford moved, seconded by Tim Boehmer, to approve the October 28, 2009 minutes as amended. Motion carried unanimously.

PRESENTATION OF PROPOSED STIPULATIONS

THOMAS J. HALLINGSTAD, R.PH.

Attorney Sandra Nowack presented the Proposed Stipulation, Final Decision and Order in the matter of Thomas J. Hallingstad, R.Ph.. Deliberation will be in closed session.

BOARD APPOINTMENTS

This item was deferred until the next meeting when the Chair-elect will be present. Jason Walker-Crawford has agreed to answer all practice questions. Amy Mattila has asked to be relieved from that process.

ADMINISTRATIVE REPORT

Board Chair and Vice-Chair Training

Tom Ryan reminded the Board of the Board Chair and Vice-Chair training that will be held on Thursday and Friday of this week.

2010 Board Meeting Dates

Tom Ryan reminded the Board that the meeting and screening dates for 2010 were included in the packet.

PHARMACY SOCIETY OF WISCONSIN (PSW) REQUEST FOR SPEAKER(S) AT PSW LEGISLATIVE DAY FEBRUARY 24, 2010 – MADISON, WI

MOTION: Tim Boehmer moved, seconded by Suzette Renwick, to delegate Gregory Weber as the Board representative at the PSW Legislative Day. Motion carried unanimously.

Due to the number of members that plan on attending this program, there may be a need to notice the meeting as a public meeting of the Pharmacy Examining Board.

REPORT ON ACCREDITATION COUNCIL FOR PHARMACY EDUCATION (ACPE) EVALUATION OF PRE-CANDIDATE STATUS CONCORDIA UNIVERSITY SCHOOL OF PHARMACY NOVEMBER 9-11 JASON WALKER-CRAWFORD

Jason Walker-Crawford reported that the process was very interesting and thorough. He told the Board that he enjoyed participating in the process.

**REPORT ON NATIONAL ASSOCIATION OF BOARDS OF PHARMACY (NABP)
DISTRICT IV MEETING
NOVEMBER 11-13, 2009 – CLAYTON, MO
AMY MATTILA**

Amy Mattila reported that the presentations were geared toward uninsured health care issues. Mike Rouse (Assistant Director of the Accreditation Council for Pharmacy Education) would like to talk to the Board regarding continuing education. Three different resolutions from the regional meeting will be forwarded to the annual meeting. Greg Weber asked Amy Mattila to send him the contact information for Mike Rouse along with a copy of the resolutions that will be sent to the Annual Meeting. Gary Plank, Marshfield Clinic, informed the Board that Marshfield Clinic is currently using the Continuous Professional Development (CPD) as part of its continuing education process. He will forward information regarding their CPD to Greg Weber.

SPEAKING ENGAGEMENT AND TRAVEL REQUESTS

None.

**VARIANCE REQUESTS AND REPORTS RECEIVED IN THE BUREAU AFTER
MAILING OF THE AGENDA**

None.

**RULE WRITING
REVIEW OF LEGISLATIVE CLEARINGHOUSE REPORTS
AND PUBLIC HEARINGS**

PUBLIC HEARING: Wis. Admin. Code § PHAR 6.08, 7.12, 8.12, relating to security systems, utilization reviews and prescription orders transmitted by facsimile

Pamela Haack informed the Board that she has received only one comment that indicated that some of the citations within the rule were incorrect. They have been corrected.

No public comments were registered at today's public hearing.

PUBLIC HEARING: Wis. Admin. Code § PHAR 7.095, relating to remote dispensing sites

Pamela Haack told the Board that there were several comments related to this rule change. She made changes that were formatting and grammatical and not substantive in nature.

Public Comments received at the meeting and read into the record:

Ted Grabarczyk – Pharm.D. Candidate 2010

See Handout distributed to the members of the Board

Matt Mabie- Hometown Pharmacies – Southeastern Wisconsin

Variances could be granted by the PEB.

He strongly recommended adding a mileage requirement/limitation.

Jason Knox – Community Memorial Hospital - Oconto Falls

He is not in support of 7C. He does not believe that the number of hours is appropriate for technicians to work in remote sites.

Tom Engels – Pharmacy Society of Wisconsin

He also suggested that variances could be granted by the PEB.

He strongly recommended adding a mileage requirement/ limitation.

His written comments will be sent to Tom Ryan.

He suggested that all remote dispensing sites be approved by the Board.

Gary Plank – Marshfield Clinic

He suggested that the Board consider its role in protecting the public and not necessarily the business interests of the public. He suggested that the Board not adopt the mileage radius amendment as recommended in earlier testimony.

Based on the comments received during the public hearing, the Board discussed the mileage/distance requirement. Several Board members suggested that a mileage/distance requirement be added. Mike Berndt indicated that if the rule added a distance requirement, the Board could grant a variance.

MOTION: Amy Mattila moved, seconded by Tim Boehmer, to change the 7.095 section D second sentence definition of remote dispensing site to “Remote means geographical distance greater than 10 miles from an existing licensed Wisconsin pharmacy open to the public” in the rule related to remote dispensing sites. Motion carried. Pamela Phillips and Greg Weber voted in opposition.

MOTION: Tim Boehmer moved, seconded by Amy Mattila, to include a third sentence indicating that a written variance request to the distance requirement may be granted by the Board. Motion carried.

MOTION: Jason Walker-Crawford moved, seconded by Pamela Phillips, to change the language under Wis. Admin Code § PHAR 7.095 (7) (C) from 2000 to 1500 hours. Motion carried unanimously.

MOTION: Tim Boehmer moved, seconded by Amy Mattila, to forward the Wis. Admin Code § PHAR 6.08, rule draft as amended to the legislature. Motion carried unanimously.

MOTION: Tim Boehmer moved, seconded by Amy Mattila, to forward the Wis. Admin Code § 7.095 rule draft as amended to the legislature. Motion carried unanimously.

MOTION: Tim Boehmer moved, seconded by Amy Mattila, to designate Pamela Haack and Michael Berndt to incorporate language into 7.095 (4) (e) to include “written notice must be submitted to the Board 30 days prior to operating a remote dispensing site.” Motion carried unanimously.

**VARIANCE EXTENSION REQUEST
ROESCHEN’S OMNICARE PHARMACY**

MOTION: Tim Boehmer moved, seconded by Amy Mattila, to grant an extension of the variance until March 31, 2010. Motion carried unanimously.

**VARIANCE EXTENSION REQUEST
FROEDTERT HOSPITAL**

Mark Naumann, Sarah McEnaney and Dr. Todd Kapinski presented a variance request for technician checking.

MOTION: Jason Walker-Crawford moved, seconded by Tim Boehmer, to grant the tech check tech variance, to expire March 1, 2011, and also to require reporting in January and July of each year showing the accuracy rate of 99.8% for each technician. Motion carried unanimously.

**BOARD REVIEW OF CURRENT AND FUTURE RULEMAKING AND LEGISLATIVE
INITIATIVES – DISCUSS AND SET PRIORITIES**

Greg Weber indicated that the elimination of the practical exam rule became effective on November 1, 2009. The Board discussed its working documents relating to its priorities. The Board directed the Department to develop a scope statement related to the first three items under future rule making.

SUMMARY REPORTS ON ADMINISTRATIVE RULES

No report at this time

PANDEMIC FLU PREPAREDNESS

A copy of the letter sent to DHS was included in the agenda packet. Greg Weber told the Board that a variance request related to pandemic flu preparedness (Specifically discussed by the Board: Wis. Admin Code § PHAR 7.01 (1) (e) regarding mandatory consultation and delivery, Wis. Admin Code § PHAR 7.01 (3) regarding the technician to pharmacist ratio and Wis. Stat. § 450.06 (1) regarding dispensing from non-licensed locations) from DHS must come from a pharmacist and that the point person at DHS is Joe Cordova.

PRACTICE QUESTION – AUTOMATED DISPENSING ALBERT BARBER – GOLDEN LIVING

The Board decided that with regard to question one – automated dispensing is allowed if the facility is a skilled nursing facility.

With regard to question two, subsection 4 does not apply to remote dispensing but does apply to automated dispensing.

PHARMACEUTICAL SERVICES DEFINITION AND LIMITED PHARMACY LICENSES

Tim Boehmer indicated that he was unable to locate a definition of Pharmaceutical Services but would refer to the licenses that California issues as a basis for the limited license discussion. Mike Berndt suggested that he would rather the Board create new licenses to cover the different types of licenses that would be issued as opposed to creating different licenses by way of limited licenses.

REGULATORY DIGEST

No report at this time.

LEGISLATIVE LIAISON REPORT

AB 227

Tim Boehmer asked which state the legislation is modeling. He asked that we model a state that is least onerous to the pharmacist. Jim Parker, DRL Budget Director, informed the Board that a grant would be needed to fund this monitoring program.

SB 506

The fiscal estimate indicates that there is a substantial financial impact. The new fiscal estimate will be forwarded to the Joint Finance Committee for consideration.

SB 198

No update at this time.

SB 180

No update at this time.

AB 241

No update at this time.

AB 56

No update at this time.

SB 368 and AB 554

These items are related to medical marijuana. There will be a combined hearing for these bills in the legislature later this month.

LRB 3463/2

Dr. Jim Vergeront and Marissa Stanley (both from DPH) appeared before the Board to answer questions and provide a brief summary of the proposed legislative measure as it relates to expedited partner therapy.

FIRST DRAFT OF REMOTE DISPENSING REQUEST FORM KRIS HENDRICKSON

The Board advised Kris Hendrickson that the form will need to be modified to incorporate changes to the rule that were discussed this morning.

The changes to the form are to include:

- Include place for geographical distance from nearest area pharmacy at the top of the form.
- Change from “Contact Name of Person Requesting Variance” to “Name of Contact Person”
- Bold fax number on both sides at top of the request form
- Remove Business and insert RDS throughout for consistency
- Change hours from 2000 to 1500 for technician requirements
- Under the 5th bullet point – lower case a) if the RDS dispenses controlled substance
- The colon should be removed from after the word Physical: in the address section.
- Change title from Remote Dispensing Request Form to Remote Dispensing Site Notice Form

The Board would like to see a revised form at the February Board meeting.

DOE INSPECTION LIAISON REPORT AMY MATTILA

No report at this time.

CREDENTIALING LIAISON REPORT TIMOTHY BOEHMER

No report at this time.

STATE COUNCIL ON ALCOHOL AND OTHER DRUG ABUSE (SCAODA) REPORT PAMELA PHILLIPS

The meeting is next Wednesday and Pamela Phillips is unable to attend. Pamela Phillips noted that the sale of tobacco to minors in Wisconsin has decreased dramatically.

**REPORT FROM NATIONAL ASSOCIATION OF BOARD OF PHARMACY (NABP)
COMMITTEE ON LAW ENFORCEMENT/LEGISLATION
AMY MATTILA**

Amy Mattila will attend this meeting in January so the report will be deferred until February.

**DRUG ENFORCEMENT ADMINISTRATION
MONTHLY DRUG THEFT AND LOSS REPORTS.**

The Board reviewed recent monthly theft and loss reports received from the Drug Enforcement Administration.

INFORMATIONAL ITEMS

Noted.

PUBLIC COMMENTS

None.

CLOSED SESSION

MOTION: Suzette Renwick moved, seconded by Amy Mattila, to convene to closed session to deliberate on case(s) following hearing (Wis. Stat. § 19.85 (1) (a)); consider closing disciplinary investigation(s) with administrative warning(s) (Wis. Stat. § 19.85 (1) (b) and 440.205); to consider individual histories or disciplinary data (Wis. Stat. § 19.85 (1) (f)); and to confer with legal counsel (Wis. Stat. § 19.85 (1) (g)). Roll Call Vote: Timothy Boehmer-yes; Suzette Renwick-yes; Jason Walker-Crawford-yes; Gregory C. Weber-yes; Pamela Phillips-yes; Amy Mattila - yes. Motion carried unanimously.

Open session recessed at 1:48 p.m.

RECONVENE TO OPEN SESSION

MOTION: Suzette Renwick moved, seconded by Jason Walker-Crawford, to reconvene into open session at 2:12 p.m. Motion carried unanimously.

VOTING ON ITEMS CONSIDERED/DELIBERATED IN CLOSED SESSION

APPLICATION REVIEW – MEDICINE SHOPPE PHARMACY ABBOTSFORD NN, CANADA

Tim Boehmer suggested that a letter be sent to the pharmacy indicating that according to Wis. Stats. 450.065, Medicine Shoppe Pharmacy, Abbotsford NN, Canada, does not qualify for a Wisconsin Pharmacy License since they do not currently hold a license in another state within the United States.

PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS

THOMAS J. HALLINGSTAD, R.PH.

MOTION: Amy Mattila moved, seconded by Tim Boehmer, to adopt the Findings of Fact, Conclusions of Law, Stipulation and Order, in the matter of Thomas J. Hallingstad, R.Ph.. Motion carried. Greg Weber recused himself.

CASE CLOSINGS

06 PHM 037

MOTION: Amy Mattila moved, seconded by Suzette Renwick, to close case 06 PHM 037 for No Violation. Motion carried. Greg Weber recused himself.

06 PHM 077

MOTION: Tim Boehmer moved, seconded by Jason Walker-Crawford, to close case 06 PHM 077 for Insufficient Evidence. Motion carried unanimously.

08 PHM 032

MOTION: Amy Mattila moved, seconded by Jason Walker-Crawford, to close case 08 PHM 032 for No Violation. Motion carried. Tim Boehmer and Greg Weber recused themselves.

08 PHM 046

MOTION: Suzette Renwick moved, seconded by Jason Walker-Crawford, to close case 08 PHM 046 for Insufficient Evidence. Motion carried. Amy Mattila recused herself.

ADJOURNMENT

MOTION: Jason Walker-Crawford moved, seconded by Pamela Phillips, to adjourn the meeting at 2:18 p.m. Motion carried unanimously.